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# SPEECH

OF

HON. JOHN SHERMAN, OF OHIO,

ON

REPRESENTATION OF SOUTHERN STATES;

DELIVERED

IN THE SENATE OF THE UNITED STATES, FEBRUARY 26, 1866.

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## REPRESENTATION OF SOUTHERN STATES.

The Senate having under consideration the concurrent resolution of the House of Representatives relative to the representation of certain States—

Mr. SHERMAN said:

Mr. PRESIDENT: The immediate question before the Senate is upon the resolution of the House of Representatives, passed on the 21st instant, declaring that no Senator or Representative shall be admitted into either branch of Congress from any of the eleven States which have been declared to be in insurrection until Congress shall have declared such State entitled to such representation. This question, together with the reasons stated in the resolution for its passage, the circumstances under which it is pressed in Congress, and the many pending propositions of a kindred character now on our table, induces me to follow the example so often set in the Senate, and to discuss all these kindred propositions now while I have the floor. I shall do so as clearly and as briefly as possible, in the order in which they will probably present themselves for our vote. And first as to this resolution.

If the meaning of the resolution is that as a matter of convenience in the discharge of our duties the Senators and Representatives ought to act in concert with each other in legislating upon and in discussing all propositions affecting the right of States to representation, surely it is a reasonable proposition. We have already acted in concert at the beginning of this session by creating a joint committee as an organ of both bodies to confer with each other and to communicate to each House separately their deliberations. We have often before recognized the propriety of acting through joint committees on questions of great importance, when the concurrence of both Houses is needed, and when a free conference will probably tend to produce an agreement. Therefore, if this is the purpose of this resolution, it is a very simple and plain one, and obviously defensible.

But, Mr. President, this resolution goes further. It asserts, and it was intended to assert, that with Congress, and with Congress alone, rests the duty of defining when a State once declared to be in insurrection shall be admitted to representation in this and the other House of Congress. This is a proposition of constitutional law; and on this point I am glad to say that there has been no difference of opinion among us until this session of Congress. This question has been three times decided in the Senate. It has been decided by the unanimous report of our Judiciary Committee. It has not been controverted in this body until within a very few days, or until during the present session of Congress. At the last session a unanimous report was made from the Judiciary Committee, composed of some of the ablest lawyers in the Senate, in which this doctrine is, in my judgment, more clearly and distinctly expressed than in the resolution now before us. I cannot see why any one who gave his deliberate judgment to that proposition can oppose this. The honorable Senator from Maine read a portion of this report on Friday, but it will bear repetition, and I will now read it:

"The persons in possession of the local authorities in Louisiana having rebelled against the authority of the United States, and her inhabitants having been declared to be in a state of insurrection in pursuance of a law passed by the two Houses of Congress, your committee deem it improper for this body to admit to seats Senators from Louisiana, till by some joint action of both Houses there shall be some recognition of an existing State government acting in harmony with the Government of the United States and recognizing its authority."

If this is law, how can any Senator vote against the pending proposition unless it is for reasons not involving the merits of that proposition? But this is not the only case, for I find that this very question was made, and by a vote of the Senate was definitely decided, and it was

made so distinctly that no Senator could have voted for the proposition I am now about to read without understanding its full purport and effect.

It will be remembered that a bill came to the Senate, passed by the House of Representatives guarantying to the seceded States a republican form of government, commonly known as the Wade and Davis bill. It was antagonized here by various propositions, and among the rest by a proposition offered by the honorable Senator from Missouri, [Mr. Brown.] That bill contained many sections intended to provide a mode by which these eleven States might, when the rebellion was suppressed within their limits, be restored to their old places in the Union. The proposition offered by Mr. Brown, as a substitute for the bill, I will now read; and I invite the attention of Senators to the distinct assertion of the very doctrine that is proclaimed in this resolution:

"That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the act entitled 'An act to provide for the collection of duties on imports, and for other purposes,' approved July 13, 1861, they shall be, and are hereby declared to be, incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress, until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States"—

Then mark these words—

*"nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress, hereafter to be passed, authorizing the same."*

This proposition was introduced in antagonism to the proposition then before the Senate, as a substitute for it, to cover the whole ground, and I am told was framed by our fellow Senator now dead, Judge Collamer. After debate it was adopted as a substitute by the close vote of 17 yeas to 16 nays. Among the yeas were every Democratic member of this Senate and some of the Republicans. All the nays were Union Senators, friends of the original bill, including many classed as radicals. I give the vote in full:

"YEAS—Messrs. Brown, Carlile, Cowan, Davis, Doolittle, Grimes, Henderson, Hendricks, Johnson, Lane of Indiana, McDougall, Powell, Richardson, Riddle, Saulsbury, Trumbull, and Van Winkle—17.

"NAYS—Messrs. Chandler, Clark, Conness, Hale, Harlan, Lane, of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilkinson, and Wilson—16."

It may be said that these gentlemen voted for this proposition for the purpose of defeating a more offensive one; and if the vote rested here that would be a reasonable explanation. But in order to point the significance of this vote the honorable Senator from Illinois, the chairman

of the Judiciary Committee, [Mr. TRUMBULL,] called attention to the importance of the question and said he wanted a definite vote upon this proposition by itself. He stated its importance, the effect of the principle involved, and asked for the yeas and nays on the passage of the bill as amended, in order, as he said, to ascertain the judgment of the Senate upon this distinct proposition. The bill then contained nothing but what I have read to you, and the vote was taken by yeas and nays, and stood as follows:

"YEAS—Messrs. Brown, Chandler, Conness, Doolittle, Grimes, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—23.

"NAYS—Messrs. Davis, Powell, and Saulsbury—3."

So that by this deliberate vote, after debate, after the attention of the Senate had been called to the importance of the proposition by the judicial organ of this body, at a time when there was no excitement and no party feeling here on this proposition, the doctrine we are discussing was asserted by an almost unanimous vote of the Senate. It seems to me that with this declaration of the opinion of the Senate before us, made when it was not influenced by party feeling or party excitement, we ought not to doubt the correctness of the pending resolution, not near so strong in its tenor or language. It ought not to be resisted by any one who thus committed the Senate to that proposition against a measure that would have organized a system to reconstruct the seceding States.

But, Mr. President, I need not depend upon the vote of the Senate or upon the authorities, because I think, if you test this proposition by the simplest principles of constitutional law there can appear no doubt that Congress has the sole and exclusive power over this subject. The Constitution of the United States gives to the President of the United States no legislative power except as a part of the law-making power. He is an executive officer, with no legislative power except that which he exercises in connection with us. The Constitution of the United States confers upon Congress not only the power to raise and support armies, to appropriate money therefor, and to provide and maintain a navy, but—

"To make rules for the government and regulation of the land and naval forces."

And among the residuary powers conferred upon Congress is that important one—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Therefore, where a power is conferred upon the President, and the legislative power is necessary in order to carry that power into effect,



Congress alone possesses the power to arm the Executive with the necessary authority to execute the laws. Upon Congress alone rests all the residuary powers; and therefore it is that the power of Congress follows our flag wherever it floats. Our flag may go round the world, to South America, to Italy, to China; it may go into any foreign country as it did in Mexico; it may go into the southern States subduing a rebellion, and wherever it goes the legislative power of Congress goes with it. It regulates and governs the Army, and the President has nothing to do but to execute the will of Congress and the Constitution of the United States.

It seems, therefore, testing it by reason, that this power must rest in Congress. The doctrine is very strongly stated by Story, in his Commentaries on the Constitution, in very much the language I have used; and he says, in speaking of the powers of Congress, that the jurisdiction and power of the Government of the United States follow our flag or our Army into a foreign country, and Congress may make rules and regulations for the government of the Army of the United States in a foreign country as well as in our own, and it is the duty of the President to execute them. It is true that, in the absence of rules and regulations prescribed by Congress the President may make such regulations as are absolutely necessary for the government of the Army wherever it is, but it is only as a part of his duty to execute the general laws. If Congress chooses to step in and prescribe the mode and manner in which these powers shall be exercised, he is bound by his oath to observe such rules and regulations. I conclude, therefore, that as Congress has declared eleven States to be in a state of insurrection, as it is necessary now to pass some plan or law by which these States may be restored to their old place in the Union, Congress has the undoubted legislative power to prescribe the terms, conditions, and tests by which their loyalty and obedience to the law may be adjudged.

#### TENDENCY OF THIS RESOLUTION.

But, Mr. President—and I say it with great deference to the committee who reported it—I do not believe the bare assertion of this power tends to promote the object stated by the resolution itself. The object of this resolution is stated to be to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in a state of insurrection. If this resolution would tend to promote these great objects, I would vote for it much more cheerfully than I will; but I regard it as a mere straw in a storm, thrown in at an inopportune moment; the mere assertion of a naked right which has never yet been disputed, and never can be successfully; a mere assertion of a right that we have over and over again asserted. The only doubt I

ever had about the resolution was the wisdom of introducing it and passing it under the previous question in one House at a moment when there was undue or unusual excitement in the public mind. My idea is that the true way to assert this power is to exercise it, and that it was only necessary for Congress to exercise that power in order to meet all these complicated difficulties. This resolution does not provide for the contingencies that have happened. Let me state the case. Suppose the two Houses of Congress cannot agree upon a plan of reconstruction, as it is very obvious we shall have difficulty in doing. Opposition here is already developed to the constitutional amendment as part of the plan agreed upon, in quarters at least to me unexpected, and it is very doubtful whether we can agree by the requisite majority upon this leading idea of a change of the Constitution. Suppose the two Houses of Congress cannot agree with each other, what then? Must these eleven States stand in their present isolated condition beyond the pale of civil law until the two Houses can agree upon some proposition?

Again, suppose that Congress will not agree with the President, as actually occurred in the passage of the Wade and Davis bill. We sent to President Lincoln our plan of reconstruction. He declined to approve it. There was a difference between Congress and the President. Up to this hour we never have exercised our power to regulate the mode and manner of bringing these States back into the Union. Suppose this difference exists between the various departments of the law-making power and no law should be passed on the subject, is it intended by this resolution to assert that no representatives from these eleven States shall come back here, and that the power of each House to judge of the elections, returns, and qualifications of its own members shall not be exercised until by force or in some other way we can be compelled to agree? Must these States be deprived of all representation here until a forced verdict is drawn out of Congress with the assent of the President? Not at all.

I have no doubt of the power of Congress to pass any law it can on the subject, but I know very well that if Congress fails to pass a law after a reasonable time, either House can and will exercise its undoubted power to admit Senators and Representatives on the floor of Congress. If we fail to pass a plan of reconstruction at the present session of Congress, this resolution will not prevent either House of Congress from hereafter exercising its undoubted power to pass upon the claim of any one who comes here at this bar demanding a seat as a Senator of the United States. Therefore I say that the measure proposed does not meet the real difficulty in the case. What we want is a plan of action by which these States may, upon such terms and conditions as are consistent

with the public safety, come back into this Union.

THE WADE-DAVIS BILL.

Mr. President, in my judgment the real difficulty in this whole matter has been the unfortunate failure of the executive and legislative branches of the Government to agree upon a plan of reconstruction. If at the last session we had provided a law, reasonable in itself, proper in its provisions, by which these States might have been guided in their efforts to come back into the Union, that would have been an end of this controversy; but unfortunately (and I am not here either to arraign the living or the dead) there was a failure to agree. Earlier in this war, during the Thirty-Seventh Congress, a gentleman now in his grave, and whose eulogy was so fitly pronounced the other day in the House of Representatives by his colleague here, Henry Winter Davis, prepared a bill to meet this exigency. He was not then a member of Congress. He brought that bill to me. It was a bill to guaranty to each State a republican form of government. The provisions of the bill pointed out a plan by which these States, then declared by Congress to be in a state of insurrection, might, when that insurrection was subdued or abandoned, come back freely and voluntarily into the Union. It provided for representation; it provided for the election of a convention and a Legislature, and the election of Senators and members of Congress. It was a complete guarantee to the people within the States upon certain conditions to come back into the Union. The provisions and tests by which to judge when the state of insurrection had ceased and determined were prescribed. I introduced that bill here at the request of Mr. Davis. It was referred to the Judiciary Committee. It was not acted upon by them. I suppose they thought it premature. Afterward Mr. Davis came into the Thirty-Eighth Congress as a member of the House of Representatives. Among the first acts performed by him after taking his seat was the introduction of this same bill, framed by him and introduced by me into the Senate, in the House of Representatives. It was introduced by him on the 15th December, 1863. It was debated in the House of Representatives and passed by a very decided vote, and it was sent to the Senate. Its history I have already in part stated. It was reported to the Senate favorably; but in place of it was substituted the proposition I have already read, offered by the Senator from Missouri, which was adopted in the Senate. It was sent back to the House; a committee of conference was appointed, and the result was the reporting to the Senate and the House of what was called the Wade and Davis bill. That bill was debated and finally passed upon the report of the committee of conference. It went to the President; he did not approve it. I have before me a proclamation issued by the

President on the 8th of July, 1864, in which it is recited:

"Whereas at the late session Congress passed a bill to guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government," a copy of which is herewith annexed; and whereas the said bill was presented to the President of the United States for his approval less than one hour before the *sine die* adjournment of said session, and was not signed by him; and whereas the said bill contains, among other things, a plan for restoring the States in rebellion to their proper practical relation in the Union, which plan expresses the sense of Congress upon that subject, and which plan it is now thought fit to lay before the people for their consideration:

"Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, that while I am (as I was in December last, when by proclamation I propounded a plan for restoration) unprepared, by a formal approval of this bill, to be inflexibly committed to any single plan of restoration; and while I am also unprepared to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for naught, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort, or to declare a constitutional competency in Congress to abolish slavery in States, but am at the same time sincerely hoping and expecting that a constitutional amendment abolishing slavery throughout the nation may be adopted."

He then goes on and gives his reasons for not approving this plan; nor does he entirely disapprove of it, but he said it was one of numerous plans which might be adopted.

Mr. SUMNER. Will the Senator allow me to interrupt him there? I will state that it so happened that I had an interview with the late President Lincoln immediately after the publication of that paper, and it was the subject of very minute and protracted conversation, in the course of which, after discussing it in detail, he expressed to me his regret that he had not accepted the bill.

Mr. SHERMAN. Mr. President, I think every patriotic citizen of the United States will express his regret, not so much that the President did not approve that bill, because I will not condemn the President for declining to sign it, but that Congress in connection with the President did not agree upon some plan of reconstruction by which these States might have been guided, so that when the rebellion was put down they might see in the form of law some guide to lead them in the difficult road to restoration. Who does not now see that any law upon the subject would have been better than the absence of all law? You must remember that whatever fault there is in this matter was in the law-making power of Congress and the President combined. This controversy was all over before the presidential election, and I think before the nomination of Andrew Johnson. And in presenting



these facts I am bound here to say that the paper issued by my colleague and Mr. Davis in reply to the President's proclamation, did not meet the sanction of the people, but was generally condemned as introducing an unpleasant controversy into the presidential canvass.

Mr. LANE, of Kansas. Will the Senator yield to me for a moment? I wish to propound a question about the Wade and Davis bill. Did not that bill provide for restricting the right of suffrage in the seceded States to the whites?

Mr. SHERMAN. It did. I will come to that after awhile, and will present that point distinctly. I have given you now, Mr. President, the history of that bill. I repeat that the declaration of my colleague was not approved by the people. He himself, perhaps, will agree with me that at that time it was generally regarded that the issue made by him before the people was unfortunate, because we were then in the midst of a presidential campaign. Certain it is that the public voice, so far as it could be gathered from the newspapers and from speeches and from various modes of expressing public opinion, was against the action of these two gentlemen, who, as chairmen of the respective committees of the two bodies, felt it their duty to defend this bill.

Thus, by the disagreement which commenced two years ago between Congress and the President, there was left no law upon the statute-book to guide either the President or the people of the southern States in their effort to get back to the embraces of the old Union. I regard that as a great misfortune.

#### PRESIDENT JOHNSON'S PLAN.

Now, I will ask Senators this plain question, whether we have a right now, having failed to do our constitutional duty, to arraign Andrew Johnson for following out a plan which in his judgment he deemed the best, and especially when that plan was the plan adopted by Mr. Lincoln, and which at least had the apparent ratification of the people of the United States in the election of Lincoln and Johnson.

After this effort made by Congress to provide a plan of reconstruction, there was no effort made subsequently, no bill was introduced on the subject at the last session of Congress, no further effort was made to harmonize the conflicting views of the President and Congress. One whole session intervened after this veto, as I may call it, of President Lincoln, and no effort was made by Congress to reconcile this conflict of views; and when President Johnson came suddenly, by the hand of an assassin, into the presidential chair, what did he have before him to guide his steps? The forces of the rebellion had been subdued; all physical resistance was soon after subdued; the armies of Lee and Johnston and all the other armies of the rebels had been overwhelmed, and the South lay at our power. Who doubts, then, that if

there had been a law upon the statute-book by which the people of the southern States could have been guided in their effort to come back into the Union, they would have cheerfully followed it, although the conditions had been hard?

In the absence of law, I ask you whether President Lincoln and President Johnson did not do substantially right when they adopted a plan of their own and endeavored to carry it into execution? Although we may now find fault with the terms and conditions that were imposed by them upon the southern States, yet we must remember that the source of all power in this country, the people of the United States, in the election of these two men substantially sanctioned the plan of Mr. Lincoln. Why, sir, at the very time that Andrew Johnson was nominated for the Vice Presidency he was in Tennessee as military governor, executing the very plan that he subsequently attempted to carry out, and he was elected Vice President of the United States when he was in the practical execution of that plan. And now, before we examine the steps taken by the President, and fairly weigh the wisdom of his policy, we must determine the legal *status* of the seceding States.

#### STATES IN INSURRECTION.

What was the condition of these States? I shall not waste much time upon this point, because mere theoretical ideas never appear to me to have much force when we are legislating on practical matters. They have been declared to be States in insurrection, but States still. The very resolution we have before us repeats three times that they are States now. They are referred to as States not entitled to representation. They are stated to be,

"The eleven States which have been declared to be in insurrection."

And again:

"No Senator or Representative shall be admitted into either branch of Congress from *any of said States* until Congress shall have declared *such State* entitled to such representation."

I could show very many acts of Congress in which they are referred to as States, but States in insurrection. And there is no difference between Congress and the President as to the present condition of these States. The executive branch of the Government in all its departments now treats them as States in rebellion or in insurrection. Tennessee is the only one of these States that has been proclaimed by the President to be out of insurrection. He is now exercising power in all these States as States in insurrection. He is suspending newspapers, exercising arbitrary power, suspending the writ of *habeas corpus*, treating them yet as States in insurrection; and in this view, as I have stated, Congress concurs.

Now, what is the legal result of a State being in insurrection? It was sufficiently declared in

the proposition I have already read, offered by the Senator from Missouri. They have no right while they are in insurrection to elect electors to the Electoral College; they have no right to elect Senators and Representatives. In other words, they lose all those powers, rights, and privileges conferred upon them by the Constitution of the United States. Having taken up arms against the United States, they by that act lose their constitutional powers within the United States to govern and control our councils. They cannot engage in the election of a President, or in the election of Senators or members of Congress; but they are still States, and have been so regarded by every branch and every department of this Government. They are States in insurrection, whose rights under the Constitution are suspended until they cease to be in insurrection. When that period arrives is a question, in my judgment, which must be determined by Congress, and not by the President, for the reason I have already stated; but it is clear that the first duty of Congress, under these circumstances, is to provide a mode and manner by which the condition of the States may be tested, and they may come back, one by one, each upon its own merits, upon complying with such conditions as the public safety demands.

#### WHAT THE PRESIDENT DID.

I propose now to recall, very briefly, the steps adopted by President Johnson in his plan of reconstruction. I do this for the purpose of presenting to the Senate, in a condensed view, the precise plan of reconstruction adopted by him, so that we may see at a single glance the present condition of these eleven States. When Mr. Johnson came into power he found the rebellion substantially subdued. What did he do? His first act was to retain in his confidence and in his councils every member of the Cabinet of Abraham Lincoln, and so far as we know every measure adopted by Andrew Johnson has had the approval and sanction of that Cabinet. If there is any doubt upon any measure it is upon the recent veto message; but up to and including that message, so far as we know—and in matters of this kind we cannot rely upon street rumors—Andrew Johnson's plan has met the approval of the Cabinet of Abraham Lincoln. He has executed every law passed by Congress upon every subject whatever, and especially has he executed the Freedmen's Bureau bill. He placed at the head of that bureau General Howard, one of the most fit and worthy men in the United States, to conduct the delicate affairs of that bureau, and General Howard has never asked him for any single act of authority, any single power that was not freely granted by President Johnson. The Freedmen's Bureau is also under the control of Edwin M. Stanton. Every act passed by Congress in any way bearing on this rebellion the President has fairly and promptly ex-

ecuted. If there is any that he has failed to execute I should thank any Senator to name it to me for I do not now recall it. Not only that, but he adopted the policy of President Lincoln *in hæc verba*, as I shall show hereafter in examining his proclamations, and he extended and made more severe, as you may say, the policy adopted by Mr. Lincoln. Not only that, but in carrying out his plans of reconstruction, he adopted all the main features of the only bill passed by Congress—the Wade and Davis bill. I have the bill before me, but I have not time to go into its details. My colleague, who remembers the features of that bill, will know that the general plan adopted by President Johnson is the only plan that was ever adopted by Congress. Let us look into President Johnson's plan a little more and see what it was. His first proclamation was in reference to Virginia. In this proclamation, dated Executive Chamber, May 9, 1865, he provided:

"First. That all acts and proceedings of the political, military, and civil organizations which have been in a state of insurrection and rebellion within the State of Virginia against the authority and laws of the United States, and of which Jefferson Davis, John Letcher, and William Smith were late the respective chiefs, are declared null and void."

With a single stroke he swept away the whole superstructure of the rebellion. Then he provides for the execution of all the powers of the national Government within the rebel territory, extending there our tax laws. Perhaps President Johnson ought to have thought a little about these proclamations when he disputed the power of Congress to tax the people of the southern States. He was the first to extend over those States the tax laws of the United States, and appoint assessors and collectors of internal revenue and collectors of customs in the various ports. Then he provides:

"Ninth. That to carry into effect the guarantee of the Federal Constitution of a republican form of government, and afford the advantage and security of domestic laws, as well as to complete the reestablishment of the authority of the laws of the United States, and the full and complete restoration of peace within the limits aforesaid, Francis H. Pickens, Governor of the State of Virginia, will be aided by the Federal Government, so far as may be necessary, in the lawful measures which he may take for the extension and administration of the State government throughout the geographical limits of said State."

That was the first element of his plan of reconstruction. The next was the amnesty proclamation, issued on the 29th of May following. In this proclamation he recites the previous proclamation of President Lincoln, and then goes on:

"To the end, therefore, that the authority of the Government of the United States may be restored, and that peace, order, and freedom may be established, I, Andrew Johnson, President of the United States, do proclaim and declare that I hereby grant to all persons who have directly or indirectly par-



participated in the existing rebellion, *except as hereinafter excepted*, amnesty and pardon, with restoration of all rights of property, *except as to slaves*, and except in cases where legal proceedings, under the laws of the United States providing for the confiscation of property of persons engaged in rebellion, have been instituted," &c.

And then in the oath of amnesty he provides that any person claiming the benefit of the amnesty should swear that he will "abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves." Then he goes on and excepts from the operation of this amnesty some fourteen classes of persons, more than quadrupling the exceptions of the previous proclamation of Mr. Lincoln; so that if there was any departure in this connection from the policy adopted by Mr. Lincoln, it was a departure against the rebels, and especially against those wealthy rebels who gave life and soul and power to the rebellion.

#### CONDITIONS IMPOSED BY HIM.

These were the agencies and organs under which the plan of reconstruction was to go on. Now I ask you, what conditions were imposed on these people? First, the adoption of the constitutional amendment. He was not willing to leave the matter to their amnesty oath or to the proclamation of President Lincoln, but he demanded of them the incorporation in their State constitutions of a prohibition of slavery, and the adoption by their Legislatures of the constitutional amendment so as to secure beyond peradventure the abolition of slavery forever and ever throughout the United States. This he required in every order issued to the South, and demanded it as a first and preliminary condition to any effort toward reconstruction. Next, he demanded a repudiation of the rebel debt, and a guarantee put into the constitutions of the respective States that they never would under any circumstances pay any portion of the rebel debt. Next, he secured the enforcement of the test oath so that every officer in the southern States under the act of Congress was compelled to take that oath; or if he could not find officers there to do it, he sent officers from the northern States to do it, so that this law, the most objectionable of any to the southern people was enforced in all instances at the South. It is true he appointed some provisional governors who could not take the test oath; but why? Because it was held that these provisional governors were not officers under the law. They were not officers whose commission was provided for by law; they were simply executive agents for the time being to carry into execution the plan of reconstruction; and he felt that if he could use any of these people in the southern States for the purpose of performing this temporary duty he had a right to do it. It was not prohibited by any law. The test oath only applied to offi-

cers of the United States who were provided for by law.

Next, he enforced in every case full and ample protection to the freedmen of the southern States. As I said before, no case was ever brought to his knowledge, so far as I can gather, in which he did not do full and substantial justice.

Mr. MORRILL. Allow me to ask the Senator a question. Does he mean to say that the President required it as a condition of restoration that they should give protection to the freedmen of the South?

Mr. SHERMAN. I am merely speaking of what the President did, and I say that so far as I know he exercised and enforced every power of the Government to protect the freedmen of the southern States without exception. As a matter of course he did not require it as a condition to be inserted in their constitutions.

#### PARDONS.

Now, what are the objections to this policy? The first objection, that I have heard made most commonly, and which I have made myself, is, that the President was too liberal in exercising the pardoning power. But when we remember the fact that there were more than five times as many included in his exceptions as were included in the exceptions to the proclamation of Mr. Lincoln, and that the number of pardons in comparison with the whole number of persons excepted is substantially insignificant, and that we cannot know all the circumstances which surrounded every particular case of pardon, it is hardly fair for us to arraign the President of the United States. We can limit his power to pardon in these cases. The President of the United States has no power to pardon under the Constitution of the United States in cases like this. That power is derived from the amnesty law which we passed at an early period of the war. The constitutional power to pardon given to him by that instrument extends only to cases where there had been a legal accusation by indictment or affidavit, or to cases where a man had been tried and convicted of a crime. That is the kind of pardon contemplated by the Constitution, but the authority which we gave him by law to extend pardon and amnesty to the rebels is as broad as the insurrection itself. We conferred upon the President of the United States the unlimited power of amnesty, and he has exercised that power only to a very moderate degree.

#### SUFFRAGE WITHOUT DISTINCTION OF COLOR.

But the principal objection that has been made to his policy is that he did not extend his invitation to all the loyal men of the southern States, including the colored as well as the white people. If I were now required to state the leading objection made to the policy of the President in this particular, I should use the

language of an eminent statesman, and say that when the President found before him an open field, with no law of Congress to impede him, with the power to dictate a policy in the South, to impose conditions on it, he ought to have addressed his proclamation to every loyal man above the age of twenty-one years. That would be the plan of the Senator from Massachusetts.

Mr. SUMNER. Every loyal man.

Mr. SHERMAN. I mean every loyal man of sound mind. Now, let us look at that question. In every one of the eleven seceded States, before the rebellion, the negro was excluded from the right of voting by their laws. It is true the Senator from Massachusetts would say these are all swept away. Admit that, but in a majority of the northern States to this hour there is a denial of the right of suffrage to the colored population. In Ohio, Pennsylvania, and New York that right is limited, and these three States contain one third of the people of the United States. In a large majority of the States, including the most populous, negro suffrage is prohibited. And yet you ask President Johnson, by a simple mandatory proclamation or military order, to confer the franchise on a class of people who are not only prohibited from voting in the eleven southern States, but in a majority of the northern States, and indeed I think in all the States except six.

Further, it cannot be denied that the prejudice of the Army of the United States, who were called upon to enforce this proclamation within these States, was against negro suffrage. Whether that prejudice is wise or unwise, blinded or aided by the light of reason, I shall not say. I never myself could see any reason why, because a man was black, he should not vote; and yet, in making laws, as the President was then doing, for the government of the community, you must regard the prejudices, not only of the people among whom the laws are to be executed, but the prejudices of the Army and the people who are to execute those laws, and no man can doubt but what at that time there was a strong and powerful prejudice in the Army and among all classes of citizens against extending the right of suffrage to negroes, especially down in the far South, where the great body of the slaves were in abject ignorance.

But that is not all, Mr. President. The President of the United States was of the opinion that he had no power to extend the elective franchise to them, and therefore, in judging of his plan of reconstruction, we must give him at least a reasonable credit for honesty of purpose. In his message he tells you that this was the difficult subject which met him in the way, and he gives you frankly the reasons which induced him to exclude the colored population from the right to vote. He says:

"The relations of the General Government toward the four million inhabitants whom the war has called

into freedom have engaged my most serious consideration. On the propriety of attempting to make the freedmen electors by the proclamation of the Executive, I took for my counsel the Constitution itself, the interpretations of that instrument by its authors and their contemporaries, and recent legislation by Congress. When, at the first movement toward independence, the Congress of the United States instructed the several States to institute governments of their own, they left each State to decide for itself the conditions for the enjoyment of the elective franchise."

After some further discussion he goes on to say:

"So fixed was this reservation of power in the habits of the people, and so unquestioned has been the interpretation of the Constitution, that during the civil war the late President never harbored the purpose, certainly never avowed the purpose, of disregarding it; and in the acts of Congress during that period, nothing can be found which, during the continuance of hostilities, much less after their close, would have sanctioned any departure by the Executive from a policy which has so uniformly obtained.

"Moreover, a concession of the elective franchise to the freedmen by act of the President of the United States must have been extended to all colored men, wherever found, and so must have established a change of suffrage in the northern, middle, and western States not less than in the southern and southwestern. Such an act would have created a new class of voters, and would have been an assumption of power by the President which nothing in the Constitution or laws of the United States would have warranted."

And that is not all. We complain here that the President has not exercised his power to extend to freedmen the right of suffrage when Congress never has done it. We have absolute authority over this District, and until this session the proposition was not seriously mooted to extend the suffrage to the colored population. Here, better than anywhere else in the Union, they are fitted and entitled to suffrage, and yet we never, in our legislative power for this District, where we have absolute power, complied with that condition which has been asked of the President of the United States. It is complained that he did not extend the franchise to four millions in the southern States who are admitted to be ignorant, having been slaves for life, who are not prepared for liberty in its broadest and fullest sense, who have yet to be educated for the enjoyment of all the rights of freemen, when we ourselves never have been willing to this moment to confer the elective franchise upon the intelligent colored population of this District.

So I think we have never conferred the right to vote upon negroes in the Territories. My colleague will know whether we have or not. We never have. Here we have Territories where we have the power to mold the incipient form and ideas, and where our power is absolute, and yet Congress has never prescribed as a condition to their organization as Territories



and to their admission as States the right of negroes to vote.

And this is not all. In the only plan Congress has ever proposed for the reconstruction of the southern States, the Wade and Davis bill to which I have referred so often, Congress did not and would not make negro suffrage a part of their plan. The effort was made to do so, and it was abandoned. By that bill the suffrage was conferred only upon white male loyal citizens. And in the plan adopted by the President he adopted in this respect the very same conditions for suffrage prescribed by Congress.

Now, have we, as candid and honorable men, the right to complain of the President because he declined to extend suffrage to this most ignorant freed population when we have refused or neglected to extend it to them or to the negroes of this District and to the colored men who may go into the Territories? No, sir; whatever may be our opinion of the theory or right of every man to vote—and I do not dispute or contest with honorable Senators upon that point—I say with the President, that to ask of him to extend to four millions of these people the right of suffrage when we have not the courage to extend it to those within our control, when our States, represented by us here on this floor have refused to do it, is to make of him an unreasonable demand, in which the people of the United States will not sustain Congress.

What then was done by the President? He fixed the qualifications of voters by several proclamations addressed to different States. Here is the qualification fixed in his proclamation in regard to North Carolina. He directs the provisional governor to convene "a convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others." He confined it to the loyal population, and then went on:

"*Provided*, That in any election that may be hereafter held for choosing delegates to any State convention, as aforesaid, no person shall be qualified as an elector or shall be eligible as a member of such convention unless he shall have previously taken and subscribed to the oath of amnesty, as set forth in the President's proclamation of May 29, 1865, and is a voter qualified as prescribed by the constitution and laws of the State of North Carolina, in force immediately before the 20th day of May, A. D. 1861, the date of the so-called ordinance of secession."

Therefore he confined the right to vote to loyal people who had taken the oath prescribed by him, an oath which required them to renounce all allegiance to the rebel authorities and to obey and abide by and support all laws and proclamations abolishing slavery, and no others are allowed to vote under this proclamation; and then he adds:

"And none shall be allowed to vote who could not vote under the law as it stood before the rebellion commenced."

My honorable friend from Massachusetts, I know, would have desired that that last clause was omitted; perhaps many others around me would have preferred it; but I have already said sufficient upon that point. He confined the right of voting to the loyal men who were entitled to vote under the laws of that State before the rebellion, and he denied his right in the absence of law to confer upon the negro population of North Carolina the suffrage, especially when Congress and the people of the southern States and the people of the northern States have never yet shown their disposition to extend the right of franchise within their own limits. I say, whatever I may think about it as a question of ethics, or as to the right, natural or artificial, political or civil, of the negro to vote, yet to demand of the President of the United States, under these circumstances, more than he actually did, it seems to me is making an unreasonable demand.

#### THE PRESIDENT AND THE FREED PEOPLE.

That he had no unkind feelings to the negroes of the southern States is shown by many things. I have here a Life which is made up mainly of extracts from his speeches, and I could read you expressions over and over again of kindness and friendship during the last summer to this negro population. It is true, you cannot expect Andrew Johnson, whose whole life has been a struggle, who was born in a slave State, who was reared in a slave State, who owned slaves, you cannot expect him whom you have elected President of the United States to forget and renounce all the prejudices of a lifetime. You cannot expect him to stand on the high and lofty pedestal of men who have contemplated this subject at a distance and now proclaim laws that are right within the light of their reason. You must take the man with all the circumstances that surround him; and I say, taking him in that light, he has shown, in his various speeches before he sent his message here, a kindly feeling to the negro population of the southern States. I would refer to one or two of those simply to show the general tendency of his feelings. On the 10th of October last he made a speech to some colored regiments who called to pay their respects to him at the Executive Mansion, in which he said to them:

"You have been engaged in the effort to sustain your country in the past, but the future is more important to you than the period in which you have just been engaged. One great question has been settled in this Government, and that is the question of slavery. The institution of slavery made war against the United States, and the United States has lifted its strong arm in vindication of the Government and of free government, and on lifting that arm and appealing to the God of battles, it has been decided that the institution of slavery must go down."

Then he follows with kind expressions, hoping for their welfare and future prosperity. Again, in his conversation with Mr. Stearns, of

Massachusetts, an authentic report of which was given under the sanction of the President :

"You could not have broached the subject of equal suffrage at the North seven years ago; and we must remember that the changes at the South have been more rapid, and that they have been obliged to accept more unpalatable truth than the North has. We must give them time to digest a part; for we cannot expect such large affairs will be comprehended and digested at once. We must give them time to understand their new position.

"I have nothing to conceal in these matters, and have no desire or willingness to take indirect courses to obtain what we want.

"Our Government is a grand and lofty structure; in searching for its foundation we find it rests on the broad basis of popular rights. The elective franchise is not a natural right, but a political right. I am opposed to giving the States too much power, and also to a great consolidation of power in the central Government.

"If I interfered with the vote in the rebel States, to dictate that the negroes shall vote, I might do the same thing for my own purposes in Pennsylvania. Our only safety lies in allowing each State to control the right of voting by its own laws, and we have the power to control the rebel States if they go wrong. If they rebel, we have the Army and can control them by it, and if necessary by legislation also. If the General Government controls the right to vote in the States, it may establish such rules as will restrict the vote to a small number of persons and thus create a central despotism.

"My position here is different from what it would be if I was in Tennessee. There I should try to introduce negro suffrage gradually; first, those who had served in the Army, those who could read and write, and perhaps a property qualification for others, say two hundred or two hundred and fifty dollars.

"It will not do to let the negroes have universal suffrage now, it would breed a war of races."

Such were the opinions of Andrew Johnson expressed then, in which he showed that he was willing to meet the question of suffrage to the negro population, but he desired to do it gradually, and not, as he conceived, by a usurpation of power on his part. It is also shown by the evidence introduced the other day by the honorable Senator from Illinois, that the Freedmen's Bureau, right under the eye of Andrew Johnson, in Nashville, Tennessee, where he knew all that was going on, had organized vast systems for the education of southern negroes. All the plans of General Howard for the education of the freedmen of the South, under which seventy thousand negroes are now being educated by the national Government; all these plans, so far as we know, have met the sanction and approval of Andrew Johnson. It seems to me, therefore, he has evinced no undue hatred or jealousy of the colored population of the southern States, but that he is willing gradually to extend to them the right of suffrage. In the mean time, as he tells us in the late veto message, he strongly desires to protect them in the enjoyment of all their natural rights. Now, I say again, to require impossibilities of the

President of the United States, to make any undue demands or exactions of him, will not, in my judgment, be wise.

PRESIDENT'S SPEECH ON TWENTY-SECOND FEBRUARY.

I conclude, therefore, this branch of what I have to say by this general observation: that up to and including the recent veto message of the President of the United States there had been no act of Andrew Johnson which in my judgment was inconsistent with the high obligations he owed to the great Union party of the United States. I would to God that I could end here; but some things that have transpired since, my duty to myself and my State—a duty from which I shall not shrink whether it meets the enmity of friends or opponents—compel me now to speak upon some matters in connection with the President of the United States which I deeply regret. And first of all and most prominent, as being that which now stands in the public eye, I do most deeply regret his speech of the 22d of February. I think there is no true friend of Andrew Johnson who would not be willing to wipe out that speech from the pages of history. It is impossible to conceive a more humiliating spectacle than the President of the United States invoking the wild passions of a mob around him with the utterance of such sentiments as he uttered on that day. Whether he be President or priest, I care not; I must express my deep and hearty regret and condemnation of some passages of that speech. The honorable Senator from Maine the other day read one paragraph in which he arraigns Congress for organizing a central despotism. No charge could be more unfounded. We, in pursuance of a time-honored custom in Congress of gathering through our committees the information that is necessary to enable us to act upon the great questions brought before us, chose to appoint a joint committee. I suppose the President has taken offense at the fact that this committee was organized on the day before his message was sent in, under circumstances, as he thought, of heat, and I have no doubt that much of what was said by the President of the United States is but the exhibition of temper and passion against what he regarded as unjust insults and accusations, but nevertheless no true friend of his will justify him in this arraignment of Congress.

I must confess that I have not seen anything in the conduct of the committee of fifteen in their reports to the two Houses of Congress to justify it. Individual members of that committee or individual members of Congress and citizens of the United States may have criticised with undue severity some of the acts of the President; but every man who holds such a position must expect manly criticism. The people will not stop to choose terms in speaking of those in power. He must expect that. It is a part of the penalty of his greatness. He must not therefore return accusation with accusation. I



therefore say that the accusation made by the President of the United States against the action of Congress thus far has been unjust and unfounded. I speak with no feeling on this subject. The other day I objected to the discussion being commenced for fear that irritable remarks might be thrown back from Congress to the President. I do not desire to see it done, but I say to you now as the result of my deliberate reflection—and I know every true friend of the President will say I am right in this—I must express deep and heartfelt regret that he felt himself called upon to address that crowded and seething mass on the 22d of February. Better far, if, when the citizens of the United States called upon him, he had paid the respectful compliment of thanks, instead of speaking to them in the manner he did, assailing independent branches of the Government. Every man, I think, must regret this paragraph:

"I fought traitors and treason in the South. I opposed the Davises, the Toombses, the Slidells, and a long list of others, which you can readily fill without my repeating the names. Now, when I turn round and at the other end of the line find men, I care not by what name you call them, who still stand opposed to the restoration of the Union of these States, I am free to say to you that I am still in the field."

I will say that I read from a report made by the gentleman who reports for us, and which report modifies very much the language of one report that I have seen in one of the city papers; but as this report is an official one, prepared by the gentleman who reports our proceedings, I prefer to take this.

Mr. HOWARD. What paper is it in?

Mr. SHERMAN. The Philadelphia Inquirer. The President went on to say:

"I am called upon to name three at the other end of the line; I am talking to my friends and fellow-citizens, who are interested with me in this Government, and I presume I am free to mention to you the names of those whom I look upon as being opposed to the fundamental principles of this Government, and who are laboring to pervert and destroy it."

"VOICES. 'Name them!' 'Who are they?'"

"The PRESIDENT. You ask me who they are. I say Thaddeus Stevens of Pennsylvania is one; I say Mr. Sumner of the Senate is another; and Wendell Phillips is another."

This is extraordinary. The President of the United States is thoroughly combative in his disposition; he has been fighting all the days of his life; but it seems to me he ought to waive this disposition now, and remember the manner in which his lamented predecessor, Abraham Lincoln, received the jeers and blows of friends and foes. His easy good nature was a soft cushion against which everything which was offensive fell dead. His words were always kindly and genial to friend or foe. That is not the character of Mr. Johnson. It is one of the peculiarities of his character that he has not the gentleness of the late President, and yet let me say that in this respect the very courage

with which he resists opponents wherever they present themselves, we commended five years ago as the highest virtue of Andrew Johnson's life.

What is the reason given for these personal allusions? Wendell Phillips has arraigned and abused the President in a shameless manner; but he is in the habit of doing that in regard to almost every one. He recently classed him with Arnold and Burr. He said he had taken Jeff Davis's place as leader of the confederacy, and threatened impeachment. This would never be good enough for him. My friend from Massachusetts, before the magnificent oration he gave us covering the whole ground of our difficulties, let drop an expression about "white-washing" in debate in December last that I have no doubt has greatly wounded and irritated the mind of the President. He regards it rather in the light of a personal affront, though I do not believe it was so intended.

In regard to Mr. STEVENS, the other gentleman named by him, we cannot judge fairly without recalling to mind the fact that Mr. STEVENS proclaimed Andrew Johnson to be an alien enemy, a citizen of a foreign State, in the convention that nominated him as Vice President of the United States, and therefore not now legally President. We must not forget that he has shown violent and bitter feeling at various times, and that he wields great influence, and in such a way as to exasperate even a patient man. I know him well—a man of great intellect, with a controlling will, and possessing the dangerous power of keen sarcasm, which he wields against friend and foe, cutting like a Damascus blade. In a recent debate he made use of an expression that would irritate any man, especially when coming from a leader in the House of Representatives. He said of the President that his conversation with a certain "distinguished Senator" was

"In violation of the privileges of this House, made in such a way that centuries ago, had it been made in Parliament by a British king, it would have cost him his head."

I ask you, Senators, whether the President of the United States, regarding him as he is: a man who never turned his back upon a foe, personal or political; a man whose great virtue has been his combative propensity; as a man who repelled insults here on the very spot where I now stand, when they came from traitors arming themselves for the fight; can you ask him, because he is President, to submit to insult? Every sentiment of manhood, every dictate of our nature, would induce a man, when he heard these words uttered, in the heat of passion, to thrust them back. When a man becomes President he has none the less the feelings of manhood. Whether a peasant or a President, he is a man for a' that. He can never overcome that feeling, and therefore I say, Senators, when we are examining the

present condition of affairs, although I condemn the time and manner of repelling these insults as strongly as one can, yet that condemnation must be palliated by the circumstances by which he was surrounded, by our knowledge of his character, by the fact that he believed he was repelling personal insult thrust upon him by high officers of the Government, or by a gentleman like Wendell Phillips, who controls great masses of public opinion, and we are bound to give him the charity of this explanation.

There is another portion of this speech which I think is even still more indefensible than anything I have referred to; and that is that clause which I will not read to the Senate, in which he charges that these men are endeavoring to incite his assassination. No charge can be more idle, no accusation can be more unfounded; and I am astonished to the last degree that such an idea should ever enter the mind of the President of the United States that these gentlemen were conspiring his assassination! I have seen many papers printed on both sides of the question, by Democrats and Union men, and I never have seen one that approves this accusation. I have received many letters pro and con on this subject since this thing occurred, and I have never yet seen an intimation but what this charge was most unfounded. Sir, it is not in the ranks of the Union party the President will find assassins. They are bred only by a different school of politics. The men who have done so much to save this country from anarchy will not play the part of assassins. He need not guard against them; and this accusation seems to me rather the product of resentment, hatched by anger and passion, and hurled without reflection at those he believed wished to badger and insult him.

But, sir, throwing aside these personal allusions and these irritating remarks, what is there left of the speech? Cast over the remarks that I have referred to the mantle of charity, and what is there in the speech with which we can find fault? There may be ideas and sentiments which seem to be out of place; we are not here to criticise the speech of the President by the rules of grammar or syntax; but there are ideas in his speech that are deserving the grave consideration of the Senate. In one clause of the speech he says in speaking of the spirit of his address and conduct to the southern people:

"Coming in that spirit, I say to them, 'When you have complied with the requirements of the Constitution, when you have yielded to the law, when you have acknowledged your allegiance to the Constitution, I will, so far as I can, open the door of the Union to those who had erred and strayed from the fold of their fathers for a time.'"

Now read in connection with that another paragraph of the same speech:

"When those who rebelled comply with the Con-

stitution; when they give sufficient evidence of loyalty; when they show that they can be trusted; when they yield obedience to the law that you and I acknowledge obedience to, I say extend them the right hand of fellowship, and let peace and Union be restored."

#### TENNESSEE.

Other passages of this speech, and especially one or two in the veto message, show his earnest desire for the admission of Tennessee; and I have no doubt that much of the excitement in the President's mind arose out of the long-delayed admission of Tennessee into this Union. That feeling crops out very strongly in the veto message, and I confess to you that I do sympathize very much with his feelings. What is the condition of Tennessee? It was reconstructed in the sense in which the term is now used before the death of President Lincoln, under his guiding hand, with Andrew Johnson as his mere agent. It was reconstructed by Union men in the midst of war, and Tennessee aided us very much in the closing operations of this war. More than thirty thousand of her brave sons marched under the banner of Thomas and Sherman. Its government was reorganized before President Johnson came here. It was organized by his own personal friends who shared his fortunes. The men that are sent here to represent Tennessee are as true and loyal as either of you Senators, without exception. I have just had brought to me the recent letter of Mr. Maynard to the convention held on the 22d of February, and it breathes the very spirit of patriotism. There are Stokes and many others of these gentlemen who have served the cause of their country. Now I say to you that there is a feeling in the public mind that Tennessee ought to be admitted into the Union, and as soon as possible; that she has complied with every condition imposed upon her; that she has organized civil society so far as it can be; and I think it is the common feeling and desire of the people of the United States, whom we represent, the mass of the Union people, that she should be admitted as soon as possible. One year ago she was declared by the President not to be in insurrection; and I do think our first duty is at once to prepare a mode and manner by which she may be admitted into the Union upon such terms and conditions as will make her way back the way of pleasantness and peace. And, sir, I would follow the marked exception in the case of Tennessee by an encouraging plan for the admission of Arkansas and such other States as may be reconstructed on a loyal basis.

#### NO PLAN OF RECONSTRUCTION BY CONGRESS.

The weakness of the position of Congress now is not that any one denies your power, but that you hold no lanterns to them, no light, no plan, no mode by which they can get back into the folds of the Union. I say therefore, if the committee on reconstruction can report a joint resolution (instead of this asserting their power)



fixing the mode and manner by which Tennessee and other States may come back into the Union, by which their loyal sons may be represented upon this floor. I believe it will meet the hearty plaudits of the American people. I do not wish to go into the general question still before the committee on reconstruction; but if I had any power in arranging a plan, I would mark the line as broad and deep between the loyal people who stood at our side and the rebels who fought against us as between heaven and hell.

Mr. HOWARD. How can you do it?

Mr. SHERMAN. Whenever loyal men present a State organization, complying with such terms and conditions and tests of loyalty as you may prescribe, and will send here loyal representatives, I would admit them; and whenever rebels send or come here I would reject them. The President in his veto message, to which I intend to refer presently, states this point as strongly and as well as I can make it, and I will read it in reply to the honorable Senator:

"I hold it my duty to recommend to you, in the interests of peace and in the interests of Union, the admission of every State to its share in public legislation, when, however insubordinate, insurgent, or rebellious its people may have been, it presents itself not only in an attitude of loyalty and harmony, but in the persons of representatives whose loyalty cannot be questioned under any existing constitutional or legal test."

Define loyalty in your own terms; show that you have at least a generous appreciation of the position of these men; prescribe what you call a loyal man, if you choose; and then when these loyal men send here loyal men who can be tested by your oath or by any other mode or manner you choose to prescribe, let them come, in the name of God and humanity, and share our councils as they have shared our hearts; and I believe it is the irritation occasioned by this delay that has caused much of the excitement in the mind of the President.

You may say that the President's idea of loyalty is not yours, and you may differ upon that. Why do you not define your idea of loyalty, and send it to him, and if it meets his approval, well? If not, then he makes an issue with Congress, and then you can fight it out; but until then you cannot.

#### VETO MESSAGE.

Now, Mr. President, I come to the veto message. It is well known that I not only voted for the freedmen's bill, but I voted for it against the President's veto. I would vote for it over and over again. I considered it carefully; I find nothing in it but what I can approve; and I am surprised that any one who is willing to support the present Freedmen's Bureau is not willing to vote for this modification of it; but I do not wish to discuss at any length its merits. The honorable Senator from Illinois, in an elab-

orate and very able speech, has exhausted the whole subject. I am willing to let the veto of the President, with the answer of the Senator from Illinois, go to the people of the country, and upon that I am willing to defend my vote at any time and at all times. But what then? The President of the United States has constitutional powers and rights; he has the same duty imposed upon him to vote for or against that bill that rests upon any of us.

The Constitution declares that every bill shall be submitted for his approval or disapproval. If he does not approve it he sends it back, and it is nothing more nor less than a vote by him of "no" against the passage of that bill. He sends it back with his reasons. Suppose those reasons are not sufficient. That is a question that he must judge as well as you. He alleges that this bill is unnecessary, and I must confess that a recent construction put upon the bill through General Howard very much takes away from the immediate necessity for its passage. I supposed myself that the original Freedmen's Bureau bill expired by its own limitation in May, 1866, because I supposed that the President considered the rebellion as over in May last. He certainly did as to Tennessee. I supposed that the year of the duration of that bill after the war would commence, say some time in May, 1865, and therefore there was immediate necessity to supply some temporary act by which the freedmen in the southern States should be protected. It seems that in that we mistook the construction of the President, and I have here before me the order recently issued by General Howard, in which he says that—

"The President has assured the Commissioner that he regards the present law as continuing the existence of the bureau at least a year from this time."

That is, as no proclamation has been issued fixing the termination of the rebellion, until one year after that proclamation the present Freedmen's Bureau continues. If so, we have all the benefit of that system under the care of the most excellent manager of it now for one year for the protection of the freedmen. There are but very few powers conferred in the second bill that are not included in the first. There are three sections of the second bill that I think ought to be passed in the form of a law. One provides for the poor negroes on the plantations set apart by General Sherman for them. It did seem to me that it was but reasonable and right for us to secure to them a military possession for a short period of time. They came into possession of that property lawfully under military rule; they were placed upon it when it was abandoned by its owners, and when its owners were fighting this Government. Their title was legal, their possession was legal; and I say there was nothing but a reasonable condition that you should not turn them out without at least two years' preparation. I could see no objection to that. It is true the expense

of a Freedmen's Bureau may be large; but how can we help that? We have ourselves, in pursuance of our policy, emancipated the slaves; and whether it costs much or little, we are bound to ease their way from a condition of servitude to a condition of assured freedom. I tell you the people of Ohio do not care as to that. Whatever is necessary to be expended for this great purpose they are willing to pay their share. While they are reasonably economical in all questions, yet when it comes to the question of taking care of a race of people whom we ourselves have emancipated, they are willing to bear their share of the burden.

The sixth section of the bill, I must confess, seemed to me rather arbitrary; I refer to the power given to the President to buy lands at pleasure and without limit. I was disposed to vote to strike that out; but as the whole system was a temporary one, I did not believe the power would be abused by General Howard, and I trusted the President. I was willing to vote for it with that clause in; but that is neither here nor there. He had the right to veto it. What he says about taxation without representation I look upon very much like a stamp speech that had no pertinency to the veto. That we have the power to legislate for the southern States is admitted by the President himself. In all the proclamations to which I have referred he by terms extends the Treasury laws over the southern States. He has admitted over and over again our power to legislate for these States by approving and indorsing and ratifying laws we have sent to him; and therefore all he said about taxation I look upon merely as one of those make-weights in an argument that with the people would not have any material influence. If he meant by that part of his veto message simply to say that as a general principle of American constitutional law every people who are affected by laws passed by Congress should be represented, I say that is right; but there are exceptions to that as there are to every other rule. We legislate for the people of this District and they do not vote and cannot have the right to vote. We will not even let them be heard here. We legislate for the Territories and do not give them the right to vote. We legislate for foreigners, who are not represented here, except indirectly, and who have no political power. We legislate for the women and children of our country, who have no vote. We legislate for a great many people who do not vote. They are all inferentially represented, but not directly represented by members of their own choice. Therefore I regard this part of the veto message simply surplusage not to be considered; but whether it is considered or not I am willing to stand by that bill; and let me say, sir, that if any President of the United States, I do not care whether it is Andrew Johnson or his successor, shall fail or neglect

to protect from lawless violence the men who have been freed by this Government in the operations of war, that man will be cursed forever and forever. Our obligation to protect them is even more sacred than to protect the white people. My Democratic friends may think that is a very strong expression, but the reason is this: the white people can take care of themselves; they have been trained for generations as freemen; they will defend and maintain their rights; you cannot hold them in slavery. All the powers of hell could not keep in slavery the American people who have once tasted the sweets of freedom.

But it is different with the freed people of the southern States. They are very poor, helpless, dependent upon our bounty and our protection, and are there in the presence of their masters who hate them because they have lost their services. We dare not trust their protection to the white people of the southern States, because we know the instinctive prejudices that govern and control in the southern States. I believe, and I will take the President at his word when he tells me, that his earnest desire is to protect them in all their rights. In the very veto message in which he sends back the measure we sent him, he tells us in most unequivocal terms—

"I share with Congress the strongest desire to secure to the freedmen the full enjoyment of their freedom and property, and their entire independence and equality in making contracts for their labor."

Then he goes on and states his objections to the bill. While he stands by that declaration, while he protects the freed people of the southern States, I will not quarrel with him about the means. Let him fail to do that, and I will denounce him as freely and as bitterly as any Senator on this floor.

WHAT THE UNION PARTY DEMANDS OF THE PRESIDENT.

Mr. President, I feel that I have already detained the Senate too long, but there are some other observations which I shall take this occasion to make so that I may not hereafter feel called upon to trouble the Senate on these various questions of reconstruction. In my judgment, the Union party of the United States, whose representatives we are, demand both of the President and of Congress grave and important duties. I do not think either of us can avoid the fair performance of these duties by any excuse or equivocation. What they demand of the President, who accepted the nomination of the Union party, and who is the agent and representative of the Union party, and who is bound in honor to carry out its principles, is a faithful observance of the principles upon which he was elected. I look upon the common declaration either of a President or a member of Congress that he is the representative of the whole people, and is not under any obligation to the men who elected him, as

## WHAT IT DEMANDS OF CONGRESS.

as false in honor and false in principle. The President, it is true, is President of the United States, but he is the chosen representative of the Union party of the United States, and he is under obligations to that party which he cannot in honor depart from. Now, sir, a debt of honor is even of higher obligation than a debt which can be enforced in a court of law, simply because it rests upon honor alone. No debt can be of higher honor than that which the representative owes to the constituents who elected him. I think therefore that we have a right to expect that the President of the United States shall fulfill his promise upon which he was elected, that he would do all he could to make treason odious and to punish traitors. There is a growing feeling in the public mind that he is forgetting this cardinal principle of his early proclaimed policy. We have a right to expect that in the various departments and agencies of this Government he shall exercise the power intrusted to him through those men who aided and contributed to his election. He is bound as a principle of honor to select as the agents of the Government those who shared with him the political feeling that gave rise to his election. They are numerous enough to form the foundation of any Administration. And if he seeks fellowship, counsel, aid, or association from or with those who either took up arms in the recent contest, or who, regarding the war a failure, would have passively yielded to rebels, he commits that offense from which no man occupying his high position can or will recover. Tolerance of opinion within a political party is indispensable and choice of agents within it is a necessity, but it must be a grave exigency that will justify a betrayal of those by and through whom we obtain trust and power.

The Union party, in my judgment, is the most powerful political organization that has ever controlled the Government of this country. During the last fall it carried every one of the so-called northern States—northern no more, I hope. The Legislatures of all those States are in a harmony with the Union party. Nine out of ten of the soldiers who carried our flag are adherents of the Union party, and sustained us at the election as they did in the field of battle. The great body of the officers who led the soldiers through all the perils of war are of the same feeling. The great Union party is a sound, conservative, healthy political organization, demanding only of its agents what is reasonable and right. I think its members demand, and have a right to demand, of Mr. Johnson a strict, earnest, faithful adherence to the principles which led to his selection as a candidate for the Vice Presidency, and placed him side by side with the lamented Lincoln; and they demand of him trust and confidence in those who placed him in power.

And, sir, this party demands of Congress some things, also. It demands of Congress a prompt restoration of some of the rebel States, or at least a prompt plan of restoration of the rebel States. If on account of their present condition any of these States cannot yet come into the Union; if because they are still rebellious, or will not in spite of our laws select men who have not stained their hands with the blood of our countrymen, let them stay out. While the State of Georgia or any other State of the South can find no citizen within her bosom to represent her except those who, more almost than all others, are responsible for the blood that has been shed in the recent war, I will never vote for the admission of its Representatives or Senators. They must first show by their conduct an obedience to the law. Among the laws that stood on the statute-book when they were the force to which they appealed was that law which prescribed a test oath; and I, for one, will never yield that test oath to enable any man whose hand is stained with the blood of my fellow-countrymen to take a seat on the floor of the Senate.

But, sir, I am desirous to see some mode by which loyal men from the southern States, in States that are organized on a secure and safe basis, may be promptly admitted on this floor. The people of the United States demand of Congress some such plan and that right speedily, and they demand a change of the basis of representation. By the provisions of the Constitution of the United States there are four million people of the southern States who, denied all political rights, will still be represented in Congress, and the strange anomaly will present itself of these rebel States, who have done all they could to overthrow the Government, coming back here with increased political power. I think that our constituents will demand of us that before they are admitted we shall have at least adopted a plan by which the basis of representation may be put upon a secure and safe footing.

Let us take some cases disclosed by the census tables and let us make a momentary comparison. The State of Alabama has a total population of 964,201; she is entitled upon the basis of representation to seven Representatives; but the State of Alabama has only 435,080 white people who exercise any political power. The State of Wisconsin has a population of 774,710, or nearly twice as many white people as the State of Alabama, and yet unless you change the basis of representation, Alabama will come back here with seven Representatives while Wisconsin has but six. So with Virginia and Illinois. Virginia has a total population of 1,596,318, and a white population of only 1,047,411, while Illinois has a white population of 1,704,323, or nearly twice as many as the State of Virginia; and yet unless there is some



change in the Constitution, Virginia will come back with twelve Representatives while Illinois has but thirteen. I might go through the list. This is a condition of inequality to which our people will not submit now when they have the power to remedy it.

The honorable Senator from Pennsylvania [Mr. BUCKALEW] the other day in a very ably prepared argument demonstrated, as I think, very clearly that the inequality of representation in the Senate is even still more marked than this; but he must remember that that inequality is beyond the power of recall; that no change can be made in that respect except either by revolution or by a national convention. Besides, this inequality of representation in the Senate does not really amount to very much, for the reason that the small States are mainly distributed side by side with the large States, and they have a community of interest with the large States. I have myself watched the vote upon the various propositions to see whether this inequality of representation of States in the Senate has operated hard, and I find almost always the large and small States mix and mingle in their votes. It very rarely makes any difference, as whenever the popular majority carries the House of Representatives that same popular majority carries the Senate. This inequality, while it cannot be changed, really does but little harm. The only section of which any complaint can fairly be made is New England, where a group of six small States stand together, and sometimes have peculiar interests of which they are very tenacious; but the West rapidly growing into giant power, strengthened by new States every year, and where there is a community of interests of great States and small States—the great West can soon hold New England in check whenever she unduly avails herself of her unequal political power here.

#### THE BASIS OF REPRESENTATION—VOTERS.

Mr. President, the real question of difficulty is how this change in the basis of representation shall occur. The committee of fifteen have reported a plan that I shall probably vote for, but I must express my preference for another. I do it now, so that I shall not take up the time of the Senate hereafter. In my judgment the true basis of representation in this country is voters. I know this was discussed in the other House, and I have read the debate there, but the result was not satisfactory to me. All the objections that have been made to that system were objections that might be easily obviated and easily answered. Suppose the basis of representation was the very one suggested by Andrew Johnson, that all men above the age of twenty-one years, citizens of the United States, who by the laws of the respective States are entitled to vote shall be the basis of representation. What then? What is the objection to that plan?

It is simple, uniform, applying to all sections without any appearance of legislating against a particular interest or a particular section. It is fair, manly, and honorable. The true basis of representation are men who cast the votes. All the others who stand outside of this circle are voted for by the voters and are represented by the voters.

But one of the objections made to this plan is that in the border States by their laws they exclude a large portion of their population from voting on the ground of disloyalty, having taken share in the rebellion. Suppose they do; suppose Maryland has excluded one third of her population because they were rebels, ought the loyal men of Maryland to vote for those rebels? Whether they are excluded on account of color or crime they are equally to be excluded from the basis of representation, and this argument, which applied only to a narrow interest and of a temporary character which will soon disappear by the march of events, is now made to stand in the way of a just and fair basis of representation. So it is said that in the State of New York where there is a large preponderance of foreigners, the State of New York will lose, because foreigners not being voters will not be counted. Suppose it is, would not that be right? Foreigners are not citizens, but may become such. They pass through a pupillage and then are citizens and may be counted. Because they happen to have the most of them in New York, is that a reason why they should be included in the basis of representation? The States ought not to look upon this question as it affects their own particular interests for the time, but as a question of equality, of right, and of justice in the Electoral College and the House of Representatives.

So of New England. It is said that New England will lose something because she has a great number of beautiful women and children more than she has men. That is true; but I ask you, Mr. President, yourself a distinguished representative from New England, where the men are who represent these women? They are the best blood of your country who go westward and there soon give tone to society, and come back here to represent themselves and the mothers and sisters and kindred they left behind. New England is at this moment not only represented by her twelve Senators, but by six or eight more who are sons of New England who moved to the West and carried with them their religion, their principles, and in some cases their wives, or where they did not we provided wives for them. They came back here as Senators, and now stand here to vote New England ideas and New England principles. Suppose New England should lose a member or two because the young men have gone West, are her women and children unrepresented? No, sir, they are represented by men from every State in the Union.



I say, therefore, that this rule, proposed first I believe by Professor Leiber, is in my judgment the fairest basis of representation. That a change of the basis is demanded there can be no doubt. This in my opinion is the best proposition, but I do not profess to be among the impracticables, and if I cannot get what I want I am willing to take that proposition which was reported from the committee of fifteen, which does at least take away that singular feature by which the South would gain representation by the rebellion.

#### UNIVERSAL SUFFRAGE.

Sir, perhaps I ought not to say anything further in regard to a proposition made by the Senator from Missouri, [Mr. HENDERSON,] so eloquently and ably defended and maintained in a long and elaborate oration by the Senator from Massachusetts, that we ought now to start *de novo*, to go back to first principles and base representation on population, and take away from the States the power to fix the qualification of voters, and proclaim that nobody should be excluded from voting on account of color. It has always seemed to me best to attempt that which is attainable; and when I say to you that no man can really believe that we can keep these States out from representation here until we can educate the people of the United States up to a change of their Constitution so as to compel any State to adopt negro suffrage, it is a proposition so clear that I need scarcely discuss it.

If we propose to exclude those eleven States from the Union until we can compel three fourths of all the States to vote for negro suffrage, then these eleven States will be a Hungary, a Poland, an Ireland, to be ruled over by the military rod for years to come. You may depend upon it the people of the United States will not acquiesce in that demand. They will not waste their energies and their money in enforcing so impossible a proposition. Therefore, without going into its merits, I say it is simply proposing that which we cannot adopt.

I beg Senators not to let the protection that is due to the negroes of the southern States depend upon the narrow foundation of a congressional enactment. Suppose you were to pass the law proposed by the Senator from Massachusetts, how long would it remain on the statute-book, in the mutations of parties in this country, where nothing is more unstable than party power, especially where no great principles are immediately at stake? How long would it be before a dominant majority in Congress would repeal your law, and then you would have wasted all your power to change the basis of representation and to protect the freedmen of the southern States? What I desire now is to secure a just and fair basis of representation so that the South may have a reasonable share of political power, no more, no less. Then after their representatives have been tried

by the tests of loyalty that you may prescribe—let them be reasonable, moderate, kind, forbearing—then I hope to see these States come back into their old places in the Union, shorn of their treason, shorn of their power; equal with us, no better, no worse; white men and white women and white children, on the same footing, side by side, acting in harmony with each other in adopting legislation for the good of our great country.

#### LET US BE MODERATE.

Such is my view of the subject, and although I shall probably take no part in the debate upon it, but will vote for almost any basis of representation that changes the present one, I do say it is the duty of Congress to adopt some mode by which the basis of representation may be put upon a safe foundation. Sir, the people of the United States now demand of us wisdom and moderation. This is not the time for extreme counsels. It is not the time to attempt great reforms and works. We have just gone through a terrible war, with an overwhelming debt staring us in the face. We have to tax our people to a greater extent than they have ever been taxed before. We have complicated political relations growing out of the condition of the southern States. Do the best we can, we shall have trouble and contention and strife. We know that lawlessness and crime are spreading with giant footsteps all over the southern States. We know that the race that we have redeemed from bondage is now held in fierce terror all over the South. We know that we owe them protection, and we are bound to protect ourselves against undue power of traitors in the southern States. We have to guard our councils against the machinations of traitors here and elsewhere.

I say now is no time to quarrel with the Chief Magistrate of the United States, unless we are compelled to do so by his base betrayal of the obligations he imposed upon himself when he became our candidate. It is a time for moderation and for wisdom. Sir, I would not plead for it, but I believe it is absolutely necessary, not only for our existence as a party, but for our existence as a nation. I fear the storm. I fear struggles and contentions in these eleven States, unless there is some mode by which the local power of those States may be put in loyal hands, and by which their voices may be heard here in council and in command, in deliberation and debate as of old. They will come back here shorn of their undue political power, humbled in their pride, with a consciousness that one man bred under free institutions is as good at least as a man bred under slave institutions. I want to see the loyal people in the South, if they are few, trusted; if they are many, give them power. Prescribe your conditions; but let them come back into the Union upon such terms as you may prescribe. Open the door for them. I hope to see some great spectacle

of punishment, some grand tribunal erected to try, not merely Jefferson Davis, but in his person to try the rebellion, to condemn it before the civilized world; the sentence to be recorded in the pages of history, not as the sentence of death merely against "an old man broken with the storms of state," but as the ignominious sentence of a free people against the worst rebellion ever inflicted on mankind. But that over, I do hope that without more bloodshed, of which we have had enough, we may see harmony restored in this great Union of ours; that all these States and all these territories may be here in council for the common good, and that at as speedy a moment as is consistent with the public safety.

## OHIO AND INDIANA.

Before I conclude, allow me to read two sets of resolutions framed since we have been engaged in this debate, and which receive my hearty approval: one passed by the Union party of the State of Indiana, and the other reported to the Union members of the Legislature of Ohio, and which, I believe, will receive their sanction. The Indiana Union convention passed the following resolutions:

"*Resolved*, That it is the province of the legislative branch of the Government to determine the question of reconstruction, and in the exercise of that power Congress should have in view the loyalty of the people of those States, and their devotion to the Constitution and obedience to the laws. Until the people of these States prove themselves loyal to the Government they should not be restored to the rights enjoyed before the rebellion.

"*Resolved*, That no man who voluntarily participated in the rebellion ought to be admitted to a seat in Congress, and under the Constitution of the United States the power to determine the qualifications requisite of electors rests with the States respectively.

"*Resolved*, That the Union of these States has not and cannot be dissolved except by successful revolution."

I now present and read kindred resolutions reported to the Union members of the Ohio Legislature recently by a committee of their own number:

"*Resolved*, That the President, Andrew Johnson, in demanding of the revolted States the repeal of their ordinances of secession, the repudiation of their rebel war debts, and the adoption of the amendment of the Constitution abolishing slavery before he would withdraw the military control of the provisional governments, wisely inaugurated the necessary measures of reconstruction, that can only be completed by Congress and the States by the adoption of a further constitutional amendment apportioning representation in Congress among the States according to the numbers of those classes thereof who, by the laws of such States, have a voice in such representation; and that while the safety of the nation and justice to all its parts require that these States should be admitted only with such representation, we deem it inexpedient and unnecessary to press upon them other conditions

to a full restoration to their place and rights in the Union.

"*Resolved*, That we deem it the duty of Congress to provide by just and prudent but effective legislation for the protection of the freedmen.

"*Resolved*, That we respectfully and earnestly urge upon Congress and the President to waive extreme opinions, and that in the discharge of the great trust confided to them by the nation they harmoniously provide for us the ways of future concord and the moderate but effectual measures of a lasting reconstruction."

I will also read from a private letter which I have received from a distinguished citizen of my State, expressing an opinion in which I heartily concur:

"Our party is now in the hour of its trial, and it needs to gain strength by prudence rather than prodigally wasted by the very extravagance of rashness. We can never maintain ourselves against the President or anybody else upon a policy of indefinite and unconditional exclusion of the southern States, establishing a Hungary or Poland in the midst of the Republic. We must rather, in my judgment, offer immediate admission to the rebel States upon terms clear, distinct, and announced, and show to our people that it is not revenge but safety that we want."

## RÉSUMÉ.

I have thus, Mr. President, endeavored to show that to this hour no act has been done by the President inconsistent with his obligations to the great Union party that elected him.

Differences have arisen, but they have arisen upon new questions, not within the contemplation of either the Union party or the Union people when the President was nominated. I have also shown that he has acted in pursuance of a policy adopted by Mr. Lincoln, and approved by the people, and that no event has yet transpired that will preclude him from a hearty coöperation with the great mass of the Union party in securing to the country the object for which we conducted successfully a great war. That events have transpired, that utterances have been made tending in that direction, no one will deny. The surest evidence is in the joy of the worst enemies of the country over our divisions.

I find in a recent paper this significant paragraph:

*Democratic Demonstration at Dayton.*

DAYTON, OHIO, February 20.

The Democracy of Dayton had a jollification over President Johnson's veto of the Freedmen's Bureau bill this afternoon, firing one hundred guns. Mr. Vallandigham made a brief speech, saying the Democracy did not elect President Johnson, but it is now their duty to stand by him. He announced a mass meeting in future for exultation. A flag floats from Mr. Vallandigham's window.

Mr. CRESWELL. May I ask what kind of a flag?

Mr. SHERMAN. I do not know; a good flag in bad hands, I suppose.



Sir, I can imagine no calamity more disgraceful than for us by our divisions to surrender, to men who to their country were enemies in war, any or all of the powers of this Government. He who contributes in any way to this result deserves the execrations of his countrymen. This may be done by thrusting upon the President new issues on which the well-known principles of his life do not agree with the judgment of his political associates. It may be done by irritating controversies of a personal character. It may be done by the President turning his back upon those who trusted him with high power, and thus linking his name with one of the most disgraceful in American history, that of John Tyler. I feel an abiding confidence that Andrew Johnson will not and cannot do this; and, sir, who will deny that the overbearing and intolerant will of Henry Clay contributed very much to the defection of John Tyler? But the division of the Whig party was an event utterly insignificant in comparison with the evil results of a division in the Union party. Where will be the four million slaves whom by your policy you have emancipated? What would be their miserable fate if now surrendered to the custody of the rebels of the South? Will you, by your demand of universal suffrage, destroy the power of the Union party to protect them in their dearly purchased liberty? Will you, by new issues upon which you know you have not the voice of the people, jeopard these rights which you can by the aid of the Union party secure to these freedmen? We know that the President cannot, will not, and never agreed to, unite with us upon the issues of universal suffrage and dead States. No such dogmas were contemplated, when, for his heroic services in the cause of the Union, we placed him side by side with Mr. Lincoln as our standard-bearer. Why, then, present these issues? Why decide upon them? Why not complete the work so gloriously done by our soldiers by securing union and liberty to all men without distinction of color, leaving to the States, as before, the question of suffrage.

Sir, the curse of God, the maledictions of millions of our people, and the tears and blood of new-made freemen will, in my judgment, rest upon those who now for any cause destroy the unity of the great party that has led us through the wilderness of war. We want now peace and repose. We must now look to our public credit. We have duties to perform to the business interests of the country in which we need the assistance of the President. We have every motive for harmony with him and with each other, and for a generous and manly trust in his patriotism. If ever the time shall come when I can no longer confide in his devotion to the principles upon which he was elected, I will bid farewell to Andrew Johnson with unaffected sorrow. I will remember when he stood in this very spot, five years ago,

repelling with unexampled courage the assaults of traitors. He left in their hands wife, children, property, and home, and staked them all on the result. I will remember that when a retreating general would have left Nashville to its fate, that again, with heroic courage, he maintained his post. I will remember the fierce conflicts and trials through which he and his fellow-compatriots in East Tennessee maintained our cause in the heart of the confederacy. I will remember the struggles he had with the aristocratic element of Tennessee, never ashamed of his origin and never far from the hearts of the people. Sir, you must not sever the great Union party from this loyal element of the southern States. No new theories of possible utopian good can compensate for the loss of such patriotism and devotion. Time, as he tells you in his message, is a great element of reform, and time is on your side. I remember the homely and encouraging words of a pioneer in the anti-slavery cause, an expelled Methodist preacher from the South, who told those who were behind him in his strong anti-slavery opinions, "Well, friends, I'll block up awhile; we must all travel together." So I say to all who doubt Andrew Johnson, or who wish to move more rapidly than he can, to block up awhile, to consolidate their great victory with the certainty that reason and the Almighty will continue their work. All wisdom will not die with us. The highest human wisdom is to do all the good you can, but not to sacrifice a possible good to attempt the impracticable. God knows that I do not urge harmony and conciliation from any personal motive. The people of my native State have intrusted me with a position here extending four years beyond the termination of the President's term of office. He can grant me no favor.

If I believed for a moment that he would seek an alliance with those who by either arms or counsel or even apathy were against their country in the recent war, and will turn over to them the high powers intrusted to him by the Union party, then, sir, he is dishonored, and will receive no assistance from me; but I will not force him into that attitude. If he shall prove false to the declaration made by him in his veto message, that his strongest desire was to secure to the freedmen the full enjoyment of their freedom and property, then I will not quarrel with him as to the means used. And while, as he tells us in this same message, he only asks for States to be represented who are presented in an attitude of loyalty and harmony and in the persons of representatives whose loyalty cannot be questioned under any constitutional or legal test, surely we ought not to separate from him until, at least, we prescribe a test of their loyalty upon which we are willing to stand. We have not done it yet. I will not try him by new creeds. I will not denounce him for hasty words uttered in repelling personal af-

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fronts. I see him yet surrounded by the Cabinet of Abraham Lincoln, pursuing his policy. No word from me shall drive him into political fellowship with those who, when he was one of the moral heroes of this war, denounced him, spit upon him, and despitefully used him. The association must be self-sought, and even then I will part with him in sorrow, but with the abiding hope that the same Almighty power

that has guided us through the recent war will be with us still in our new difficulties until every State is restored to its full communion and fellowship, and until our nation, purified by war, will assume among the nations of the earth the grand position hoped for by Washington, Clay, Webster, Lincoln, and hundreds of thousands of unnamed heroes who gave up their lives for its glory.

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